

UNITED STATES OF AMERICA
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

CHAIRMAN:
Judge Wm. Terrell Hodges
United States District Court
Middle District of Florida

MEMBERS:
Judge John F. Keenan
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Southern District of New York

Judge Robert L. Miller, Jr.
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**U. S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS**

October 21, 2005

Loretta G. Whyte, Clerk
U.S. District Court
102 Versailles Street
Suite 501
Lafayette, LA 70501

Re: MDL-1657 -- In re Vioxx Products Liability Litigation

(See Attached Schedule A of Order)

Dear Ms. Whyte:

I am enclosing a certified copy and one additional copy of a transfer order filed today by the Panel in the above-captioned matter. The order is directed to you for filing.

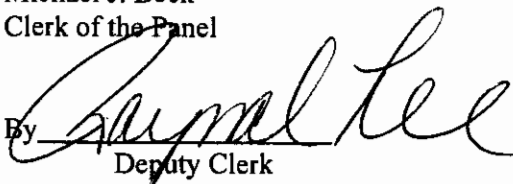
The Panel's governing statute, 28 U.S.C. §1407, requires that the transferee clerk "...transmit a certified copy of the Panel's order to transfer to the clerk of the district court from which the action is being transferred."

The Panel has ordered that its Rule 1.6(a), pertaining to transfer of files, be suspended for purposes of this litigation. Accordingly, the transferee district clerk shall request, and the transferor district clerk shall forward, only those files deemed necessary by the transferee district court.

A list of involved counsel is attached.

Very truly,

Michael J. Beck
Clerk of the Panel

By 
Deputy Clerk

Enclosures/Attachment

cc: Transferee Judge: Judge Eldon E. Fallon
Transferor Judges: (See Attached List of Judges)
Transferor Clerks: (See Attached List of Clerks)

JPML Form 29A

OCT 21 2005

FILED
CLERK'S OFFICE

DOCKET NO. 1657

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE VIOXX PRODUCTS LIABILITY LITIGATION

***BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN, D.
LOWELL JENSEN, J. FREDERICK MOTZ,* ROBERT L. MILLER, JR.,
KATHRYN H. VRATIL AND DAVID R. HANSEN, JUDGES OF THE PANEL***

TRANSFER ORDER

Presently before the Panel are motions, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by the health care defendant in the Southern Texas action and plaintiffs in the remaining 47 actions listed on Schedule A to vacate the Panel's orders conditionally transferring the actions to the Eastern District of Louisiana for inclusion in the Section 1407 proceedings occurring there in this docket. Merck & Co., Inc., favors inclusion of these actions in MDL-1657 proceedings.

On the basis of the papers filed and hearing session held, the Panel finds that these actions involve common questions of fact with actions in this litigation previously transferred to the Eastern District of Louisiana. Transfer of the actions to that district for inclusion in the coordinated or consolidated pretrial proceedings occurring there will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Any pending motions to remand to state court can be presented to and decided by the transferee judge. *See, e.g., In re Ivy*, 901 F.2d 7 (2d Cir. 1990); *In re Prudential Insurance Company of America Sales Practices Litigation*, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001). The Panel further finds that transfer of these actions is appropriate for the reasons expressed in the original order directing centralization in this docket. In that order, the Panel held that the Eastern District of Louisiana was a proper Section 1407 forum for actions involving claims of liability for allegedly adverse effects arising from the ingestion of Vioxx. *See In re Vioxx Products Liability Litigation*, 360 F.Supp.2d 1352 (J.P.M.L. 2005).

To the North Carolina plaintiff who argues that he does not have the resources to litigate his claims in the Eastern District of Louisiana and to the health care defendant in the Southern Texas action who argues that it is not proper to split the Texas action into multiple pretrial proceedings, we emphasize that since Section 1407 transfer is for pretrial proceedings, there is usually no need for the parties and witnesses to travel to the transferee districts for depositions or otherwise. *See, e.g., Fed.R.Civ.P. 45(c)(3)(A)*. Furthermore, the judicious use of liaison counsel, lead counsel and steering

* Judge Motz took no part in the decision of this matter.

committees will eliminate the need for most counsel ever to travel to the transferee districts. And it is logical to assume that prudent counsel will combine their forces and apportion their workload in order to streamline the efforts of the parties and witnesses, their counsel and the judiciary. This streamlining combined with uniform case management approaches instituted or anticipated in these multidistrict proceedings will foreseeably lead to an overall savings in transaction costs. *See In re Asbestos Products Liability Litigation (No. VI)*, 771 F.Supp. 415, 422 (J.P.M.L. 1991).

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, these actions are transferred to the Eastern District of Louisiana and, with the consent of that court, assigned to the Honorable Eldon E. Fallon for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

IT FURTHER ORDERED that the claims against Pfizer Inc. (Pfizer) and the physician defendant in *Santos Villarreal Layton v. Dario Arango, M.D., et al.*, S.D. Texas, C.A. No. 7:05-149, relating to Pfizer's Celebrex prescription medication are separated and remanded, pursuant to 28 U.S.C. § 1407(a), to the Southern District of Texas.

FOR THE PANEL:



Wm. Terrell Hodges
Chairman

SCHEDULE A

MDL-1657 -- In re Vioxx Products Liability Litigation

Southern District of California

Alvin Williams v. Merck & Co., Inc., et al., C.A. No. 3:05-943
Margaret Stein v. Merck & Co., Inc., et al., C.A. No. 3:05-944
Otis Anderson v. Merck & Co., Inc., et al., C.A. No. 3:05-945
Joan Ongley v. Merck & Co., Inc., et al., C.A. No. 3:05-947
Hilda Armenta v. Merck & Co., Inc., et al., C.A. No. 3:05-948
Robert Levesque v. Merck & Co., Inc., et al., C.A. No. 3:05-949
Clancy Lucille Holloway v. Merck & Co., Inc., et al., C.A. No. 3:05-950
Laura Martinez v. Merck & Co., Inc., et al., C.A. No. 3:05-951
Clarice Forbes v. Merck & Co., Inc., et al., C.A. No. 3:05-953
Robert Castro v. Merck & Co., Inc., et al., C.A. No. 3:05-954
Joseph Capozzi v. Merck & Co., Inc., et al., C.A. No. 3:05-957
Anna Lemmons v. Merck & Co., Inc., et al., C.A. No. 3:05-958
Richard Brown v. Merck & Co., Inc., et al., C.A. No. 3:05-959
Aida Hernandez v. Merck & Co., Inc., et al., C.A. No. 3:05-960
Harvey Persh v. Merck & Co., Inc., et al., C.A. No. 3:05-961
Robert Scott v. Merck & Co., Inc., et al., C.A. No. 3:05-962
Violet Abramson v. Merck & Co., Inc., et al., C.A. No. 3:05-963
Carmen Esquer v. Merck & Co., Inc., et al., C.A. No. 3:05-964

Southern District of Illinois

Rosie-May Spann v. Merck & Co., Inc., et al., C.A. No. 3:05-315
James Steele, Jr., et al. v. Merck & Co., Inc., et al., C.A. No. 3:05-339
Greg Miller, et al. v. Merck & Co., Inc., et al., C.A. No. 3:05-361
Wilma Gaston, et al. v. Merck & Co., Inc., et al., C.A. No. 3:05-362
John Allen, et al. v. Merck & Co., Inc., et al., C.A. No. 3:05-377

Western District of Kentucky

William Andrew Curl, et al. v. Merck & Co., Inc., et al., C.A. No. 3:05-324
Brenda Cox, et al. v. Merck & Co., Inc., et al., C.A. No. 3:05-332
Patrick Wayne Overall, et al. v. Merck & Co., Inc., et al., C.A. No. 3:05-333
James Goodman v. Merck & Co., Inc., et al., C.A. No. 3:05-334
Steven Clark v. Merck & Co., Inc., et al., C.A. No. 3:05-335

Eastern District of Missouri

Dorothy Ganser, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-557
Letty Bess, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-568
Arthur Mullins, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-569
Dorothy Kassing, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-631
Shirley Zook, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-632
Andrew Kisty, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-665

Eastern District of Missouri (Continued)

Virginia Kell, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-666
Mary Benson, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-668
Earlie Douglas, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-669
Ricardo Lara, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-671
Loretta Trinidad, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-673
David Moultrie, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-674
Irene Rogers, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-675
Charlotte Bohlke, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-837

Middle District of North Carolina

Jimmy Reid v. Merck & Co., Inc., C.A. No. 1:05-348

Eastern District of Texas

Elfriede Blacketer v. Merck & Co., Inc., et al., C.A. No. 1:05-336
Walter Maddox v. Merck & Co., Inc., et al., C.A. No. 1:05-338

Southern District of Texas

Santos Villarreal Layton v. Dario Arango, M.D., et al., C.A. No. 7:05-149

Western District of Washington

Robert K. Waitt v. Merck & Co., Inc., et al., C.A. No. 2:05-759

Northern District of West Virginia

Shelia Dalgo v. Merck & Co., Inc., C.A. No. 5:05-48

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